

NOT FOR PUBLICATION

**IN THE DISTRICT COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. THOMAS AND ST. JOHN
APPELLATE DIVISION**

ROSEANNIE CUFFY,

Appellant,

v.

V.I. TAXI ASSOCIATION, INC., and
STANLEY LIBURD,

Appellees.

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)D.C. Civ. App. No. 2002-197

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)Re: Terr. Ct. Civ. No. 32/2002

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On Appeal from the Territorial Court of the Virgin Islands

Considered: June 4, 2004

Filed: August 23, 2004

BEFORE: **RAYMOND L. FINCH**, Chief Judge of the District Court of the Virgin Islands; **THOMAS K. MOORE**, Judge of the District Court of the Virgin Islands; and **EDGAR D. ROSS**, Judge of the Territorial Court of the Virgin Islands, Division of St. Croix, Sitting by Designation.

ATTORNEYS:

Stephen A. Bruschi, Esq.

St. Thomas, U.S.V.I.

Attorney for Appellant,

Clive Rivers, Esq.

St. Thomas, U.S.V.I.

Attorney for Appellee.

MEMORANDUM

PER CURIAM.

I. INTRODUCTION

Appellant alleges the trial court erred by remanding this matter back to the appellee association's executive committee for redetermination. After due consideration, we find no error so we will affirm the trial court's judgment.

II. FACTUAL AND PROCEDURAL BACKGROUND

Appellant Roseannie Cuffy was a member of appellee Virgin Islands Taxi Association, Inc. After the Association received complaints regarding Cuffy, it expelled her in April 1997. (Appellant's Appendix ["App."] at 148.) In June 1998, Cuffy requested and received reinstatement. (App. at 149.)

After she was reinstated, the Association continued to receive complaints about Cuffy. On October 1, 2001, the association's disciplinary committee conducted a hearing where they heard testimony from a recent complainant and from two witnesses for Cuffy. The four members of the committee who were present voted unanimously to expel Cuffy. (J.A. at 196.)

Pursuant to the Association's bylaws, Cuffy appealed this finding to the Association's executive committee. At a November 12, 2001 hearing, the executive committee voted five to four to uphold the disciplinary committee's decision to expel Cuffy. Stanley Liburd was a member of the executive committee and

participated in the hearing and decision of the appeal, despite his prior history with Cuffy. Some time earlier, Cuffy and Liburd had an intimate relationship, and he was still subject to a restraining order she obtained on April 10, 2000 in an action for domestic violence.

Over two months later, on January 22, 2002, Cuffy filed a complaint against the Association alleging breach of contract and tortious interference with a business relationship and requesting damages and injunctive relief. (App. at 4-7.) Cuffy also filed a motion for temporary restraining order and preliminary injunction against Liburd and the Association in which she asked that the trial court: (1) order the association to reinstate her, (2) enjoin Liburd and Association from interfering with Cuffy's ability to earn a living, (3) prevent the association from removing Cuffy's vehicle "dome" and radio frequency, and (4) compel the Association to register Cuffy as a current member pending this case. (App. at 8.) On January 30, 2002, the trial court found no irreparable harm, denied Cuffy's request for a temporary restraining order, and scheduled the matter for further hearing. (App. at 15-16.) On February 8, 2002, the trial court heard argument and testimony regarding the basis for injunctive relief. The judge also ordered the parties to brief: (1) whether the court had jurisdiction over the matter as a motion for

injunctive relief or whether it required the filing of a writ of review, and (2) whether the association was justified in expelling Cuffy. (App. at 122.) Both parties contended that the trial court did have jurisdiction.

At the October 17 hearing, the trial court implicitly found it had jurisdiction and ruled on the merits. It held that the disciplinary committee's hearing did not violate Cuffy's due process rights but that the appeal was tainted by Liburd's participation in the deliberations as well as the voting process. (App. at 198.) On October 24, 2002, the trial court remanded the matter to the association's executive committee and ordered that they consider Cuffy's appeal again without Liburd. (App. at 196-201, 206.) Cuffy now appeals the trial court's decision to remand the matter.¹

III. DISCUSSION

A. The Trial Court did not Abuse its Discretion

Generally, this Court has jurisdiction to review all final judgments and orders of the Territorial Court in all civil cases.

¹ After the trial court's remand order, the Association's executive committee held another hearing and terminated Cuffy's membership. Cuffy filed a separate action in the Territorial Court challenging this expulsion. See *Cuffy v. V.I. Taxi Ass'n*, Civ. No. 574/2002. A different trial judge dismissed the case in a December 16, 2002 Order, and Cuffy's motion to reconsider was pending at the time the appellant's brief was filed. (Appellant's Br. at 3.)

See 4 V.I.C. § 33; Section 23A of the Revised Organic Act.² This Court also has jurisdiction over "[a]n interlocutory order . . . refusing . . . an injunction." V.I.R.A.P. 5(a)(2)(I). Here, jurisdiction is proper over the trial court's remand order because it denied Cuffy's requested injunctive relief.

We review the trial court's fashioning of a remedy for an abuse of discretion. See *Anderson v. Davila*, 125 F.3d 148, 159 (3d Cir. 1997). Cuffy argues that the trial court erred in failing to order her reinstatement after finding she was expelled unlawfully. We disagree. The trial court has been given broad discretion in awarding relief and we do not find that it has abused that discretion here. See *Anderson, supra*. Although Cuffy argues that the law requires the trial court to reinstate her, she cites no authority that squarely supports this proposition. Moreover, we agree with appellees that the trial judge's remedy was properly fashioned to preserve the careful balance between protecting Cuffy's rights and avoiding undue interference in the affairs of the association. See *Lettsome v. V.I. Taxi Ass'n.*, 31 V.I. 166, 169 (D.V.I. App Div. 1994).

Cuffy also argues that, even without Liburd's participation, she could not receive a fair hearing upon remand because the

² Revised Organic Act of 1954, § 23A, 48 U.S.C. § 1614, reprinted in V.I. CODE ANN., Historical Documents, Organic Acts, and U.S. Constitution at 159-60 (1995) (preceding V.I. CODE ANN. tit. 1).

other members of the association's executive committee could no longer be impartial as a result of their prior participation. Cuffy further argues that the executive committee would also feel pressure to expel her again to avoid liability. These hypothetical arguments are inadequate to justify disturbing the trial court's broad discretion. It did not abuse its authority in remanding this matter to the association's executive committee, so we will affirm.

IV. CONCLUSION

For the foregoing reasons, we affirm the trial court's order dated October 24, 2002 remanding the case to the association. An appropriate order will follow.

ENTERED this 23rd day of August, 2004.

ATTEST:
WILFREDO F. MORALES
Clerk of the Court

By: _____/s/
Deputy Clerk

Copies to:
Judges of the Appellate Panel
Judges of the Territorial Court
Hon. Geoffrey W. Barnard
Hon. George W. Cannon
Stephen Bruschi, Esq.
Clive Rivers, Esq.
Mrs. Francis
Mrs. Bonelli

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Stephen A. Bruschi, Esq.

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Attorney for Appellant,

Clive Rivers, Esq.

St. Thomas, U.S.V.I.

Attorney for Appellee.

ORDER

PER CURIAM.

For the reasons stated in the accompanying Memorandum of even date, that trial court's order dated October 24, 2002 is **AFFIRMED.**

ENTERED this 23rd day of August, 2004.

ATTEST:
WILFREDO F. MORALES
Clerk of the Court

By: _____/s/_____
Deputy Clerk

Copies to:
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